

## Remarks

### Election of Species

The Applicant has withdrawn claims 3, 6, 9-12, 41, and 43-44 from consideration.

### Rejections Under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1, 2, 4, 5, 7, 8, 38-40, and 42 as anticipated under 35 U.S.C. § 102(b) by United States patent number 4,252,439 issued to Drozella (hereinafter referred to as Drozella). The Applicant respectfully requests the Examiner's careful consideration of the following explanation the regarding Examiner's rejections.

### Rejections of Claims 1, 2, 4, 5, 7, and 8 Under 35 U.S.C. § 102(b)

The amended claim 1 includes the limitations of ***"sweeping the beam across a first alignment receptor, a second alignment receptor and a linear array of receptors positioned between and adjacent the first alignment receptor and the second alignment receptor"***. (emphasis added) The Applicant respectfully submits that these limitations of the amended claim 1 are not disclosed in Drozella. For example, column 3, lines 9-26 of Drozella discloses:

***For initial setup, the housing 17 is set so that the beam 5 is perfectly horizontal, and the device is operated while the two detectors 12 are positioned until the receptors 13 respond to the reflected adjustment beam 7. The beam 20 will be perfectly vertical. Thereafter, even if the housings 17 and 18 are disturbed, the controller 16 will operate the positioning motor 15 to realign the beam 5 so that the adjustment beams 7 are perfectly parallel to the wall of the building 1 and the beam 20 is perfectly vertical.*** In fact, the main laser beam 5 is split up so as to be reflected in a fan having a lower edge at the receptors 13. If the arrangement is disturbed so that some of the receptors 14 start to receive the laser adjustment beam 7, a computer automatically calculates the perturbation, generates error signals and automatically operates the motor 15 to reset the beam 5. (emphasis added)

With respect to column 3, lines 9-26 of Drozella, the Applicant respectfully submits that this section does not disclose subject matter upon which the limitations of the amended claim 1 referenced above reads. That is, the amended claim 1 recites "sweeping the beam across a first alignment receptor, a second alignment receptor and a linear array of receptors", but the section of Drozella cited above discloses that the "beam 5 is perfectly horizontal" and the "two detectors 12 are positioned" and it discloses that if the " housings 17 and 18 are disturbed", "positioning motor 5" is operated to "realign beam 5". The actions in which "the two detectors 12 are positioned" and "beam 5" is realigned are not read upon by "sweeping the beam across a first alignment receptor, a second alignment receptor and a linear array of receptors".

Column 2, lines 18-22 of Drozella discloses:

In fact the main beam may fully be reflected by a completely reflecting mirror that is continuously moved so that the beam effectively forms a plane and constitutes in a portion of the plane the adjustment beam, and in another portion of the plane the test beam.

Furthermore, in column 2, lines 52-57 of Drozella, reference is made to "test beam 20" and "horizontal adjustment beam 7", shown for example in Figure 4 and corresponding, the Applicant believes, "test beam and "adjustment beam" referenced in column 2, lines 18-22 of Drozella. The Applicant respectfully submits that the limitations of the amended claim 1 recited above do not read upon this section of Drozella. That is, "the main beam" referenced in the section of Drozella cited above is not "sweeping" "across" something upon which "a first alignment receptor, a second alignment receptor and a linear array of receptors positioned between and adjacent the first alignment receptor and the second alignment receptor" reads. Rather, Drozella discloses "central receptors 13" surrounded by an array of deviation receptors 14". The Applicant respectfully submits that this structure is not read upon by "a *linear array* of receptors *positioned between and adjacent* the first alignment receptor and the second alignment receptor". (emphasis added)

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Amendment C

As the Examiner is certainly aware, MPEP 2131 requires that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference". Because the Drozella does not disclose subject matter upon which every limitation of the amended claim 1 reads, a prima facie anticipation rejection of the amended claim 1 with respect to Drozella is not present for at least this reason. Accordingly, the Applicant respectfully requests withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b).

Claims 2, 4, 5, 7, and 8 depend, either directly or indirectly, upon the amended claim 1. Therefore, for at least the reason that a valid prima facie anticipation rejection of the amended claim 1 with respect to Drozella is not present, valid prima facie anticipation rejections of claims 2, 4, 5, 7, and 8 with respect to Drozella are not present. Accordingly, the Applicant respectfully requests withdrawal of the rejections of claims 2, 4, 5, 7, and 8 under 35 U.S.C. § 102(b).

Rejections of Claims 38-40 and 42 Under 35 U.S.C. § 102(b)

The amended claim 38 includes the limitations of "instructing a positioning system to **sweep the beam across a first alignment receptor, a second alignment receptor and a linear array of receptors positioned between and adjacent** the first alignment receptor and the second alignment receptor". Similar to the explanation provided with respect to the amended claim 1, the Applicant respectfully submits that Drozella does not disclose subject matter upon which these limitations of the amended claim 38 will read. Therefore, a valid prima facie anticipation rejection of the amended claim 38 with respect to Drozella is not present for at least this reason. Accordingly, the Applicant respectfully requests withdrawal of the rejection of claim 38 under 35 U.S.C. § 102(b).

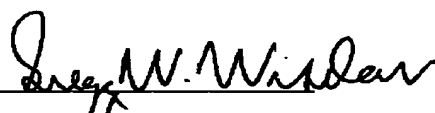
Claims 39-40 and 42 are dependent upon the amended claim 38. Therefore, for at least the reason that a valid prima facie anticipation rejection of the amended claim 38 with respect to Drozella is not present, valid prima facie

anticipation rejections of claims 39-40 and 42 with respect to Drozella are not present. Accordingly, the Applicant respectfully requests withdrawal of the rejections of claims 39-40 and 42 under 35 U.S.C. § 102(b).

Conclusion

The Applicants respectfully contend that the subject application is in a condition for allowance. Allowance is respectfully requested.

Respectfully submitted,  
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